G R S App F IX 4]

1942-43

(Ml)

File No Ml 155-42

Previous References

Serial Nos 15216

Later References

Dep Ml 777/4445

GENERAL AND REVENUE SECRETARIAT

Serial Nos 1 to 2

Part B for Dec 49-

SUBJECT

Erecting a Port in place of the late K Hanumanthiaya -

L 5526 dt 11/12/42

to the Municipal Commissioner

14/11/49

2347
L

General and Revenue Secretariat — ml File No — of 1942-43 — [App F III—2

Serial No

From The ml Commr, Bcly
No C1 PR 9/42 Dy 13-10-42
Requests orders of Govt in the matter of filling up the Vacancy of the Pdt of the city ml Corpn

1- The ml Commr states that as the Pdt did not function as Pdt since 10-8-42 he has ceased to be the Pdt of the city ml cl under section 23(1) of the Mysore City Mcpties Act 1933

2- Under the existing provisions of the Mysore City Mcpties Act 1933 the Pdt is not disabled from continuing as such and therefore there is no Vacancy to be filled up.

3- Under section 13 A of the City Mcpties (Amendment) Emergency Act 1942, necessary arrangements have been made to carry on the work of the Pdt during the period he is unable to perform his duties etc,

4- The file leading to the passing of the Emergency Act (XXXVIII) is also linked herewith submitted for orders

Disposition

18/10

5- A Copy of the Emergency Act is put up As provided for therein

NOTE—Contn Sheet

WD 04155—GPB—55 000—23 10 41

2585/42

File No 2347/2 of 194 | General and Revenue Secretariat

Serial No

The vice President has been authorised to perform the duties and exercise the powers of the President during the period the latter is unable to perform the same

6 The HC Court orders of first in the matter of filling up the Vacancy of the President the first act that under Sec 207 of the Mysore City Police Act 1933, he has ceased to be President from 11/10 when he has been absent from office for more than two months attending to the duties of that without the leave of the HC current

The opinion of the Law Secty will be obtained on the point raised by the HC

Law Secy - for 19 x 42

SECY LAW DEPT 43 32 1942 MYSORE

Cus 20-10-42

7 For perusal & opinion

Asst Secy Law Dept) Rm 21/10/42

23 21/10/42 Law 86/42 22-10-42

8 I do not think Sec 23(7)(a) HC Act applies to this case. In this case it cannot be said that the

Serial No

President absented himself from the Municipal
See 23(7) refers to voluntary acts of
absence (a) of the President for reasons
of his own, & of his own accord, or on account
of his own unavoidable circumstances, absents himself
then See 23(7) applies - Otherwise not.
9 In the present case, he has been
detained in jail by orders of Govt & as
such it cannot be said that he absented
himself from his duty. It was on the account
that the Municipal Act was amended
10 The Hon'ble Commissioner does
not seem to be correct
Law Secretary 3/11/41

L.S.G. 11) please bring with the further
references requested in the
margin.
Secy
5-11-41
Law 6/11/41

12) Put up the file in which the
Karunanandhiya had sought instructions about
this position as President when he was
under detention

13) Noted. All 155-42-6 bearing on 12/11/41
the subject is put up with reference to Para
12 supra
14/11

NOTE—Contn Sheet

WD 04155—GPB—55 000—23 10 41

H.V. KKS
Put up 14/11/41

SECY LAW DEPT 4693 1942 GOVT OF MYSORE

Serial No

K Hanumanthaiah the elected President of the Mysore Mly is detained in Jail since 10 8 1942 As he did not function as President all these days; the Mlcar considers that under Sec 23 (7) of the Mysore City Mlties Act 1933, he ceased to be the President as from 10 8 42 & that a vacancy has arisen & directs orders to fill up the vacancy by election

Sec 23 (7) of the Act runs as follows

x x x x every Councillor who for a period exceeding two months x x shall absent himself from the Mlty in such manner as to be unable to perform his duties as such President or Vice President shall cease to be President unless leave to so absent himself has been granted (by) by the Mlcl-in this case - no - K. Hanumanthaiah has not applied for the leave of the Mlcl neither has the Mlcl granted the leave to him in order to see that the Mlcl work did not come to a standstill an emergency Act was passed providing for the contingency & the Vice President is authorised to discharge the duties of the President

17) The point for consideration is whether a Vacancy in the office of the President has really arisen in the circs of the case The words "shall absent himself" have perhaps to be interpreted to mean "Wanting wilful absence & not applicable to such enforced absence due to detention in a Jail under the Defence of India Rules (vide the interpretation in the Concise Law Dictionary) It may perhaps be safely assumed that Mr

This section was framed the legislature could never have had in mind cases of this kind

Hence under the law as it stand it has to be held that no vacancy has arisen in the office of the President of the Republic

(2) Coming to the facts of the case it may be pointed out that Mr. K. Venkatachalam was aware of the provisions of the Law and it was up to him to have applied to the Chief Election Commissioner to seek extension of time and thus taken advantage of the statutory provision. He has failed to do so & it is for consideration if he may be allowed to have his seat restored on the ordinary course as the term expires on 31.12.1942 i.e about a month more when action has to be taken to hold a fresh election for the office of the President. In this view no action is called for.

(3) The question of placing the Enduring Act on permanent basis on the statutory basis is under consideration separately. When it has to be considered whether sec 23(7) also requires to be amended in anyway in the light of the facts brought to notice in this case

Law Secy for 26.11.42

GOVT OF MYSORE

234/2 Mr K Hanumanthaiah - Dpty, Bcdg
~~Mr~~ under detention in Jail

21) Considering the possible interpretation that is likely to be put on the expression 'absent himself,' and that the Vice President is enabled by the Emergency Act to perform all the duties of the President, we should draw 31-12-42 and take steps for ordering re-election or ~~of~~ to nominate the President with effect from 1-1-1943

OFFICE OF THE MINISTER FOR L S G & P H
Date 27/11/42
No 4225

DEPUTY SECRETARY'S OFFICE
2 DEC 1942
NO 4191

Mr Dec 2 SG

Cws 27-11-42

21) Since the period of Mr Hanumanthaiah as President expires on 31 12 42 a fresh election will have to be held & the term of office from 1 1 43

SG 1 12 42

Cws 2-12-42

23) Dewan
Submits with a draft DO letter for approval
2/12/42

22) MM 3/12/42

Cws 3-12-42
Encl

3/12

$\frac{\text{A } 347}{\text{L}}$

Sl 16 To The ml Commr, Bcly
Do No L 5549 Dy 3-12-42
States that, since the period of Mr K.
Hanumanthaiya as Odt expires on
3-12-42, necessary arrangements
may be kindly made for holding a
fresh election.

B

2347/42

BANGALORE CITY MUNICIPALITY

No C1 PR 9/42

Encl

MUNICIPAL OFFICES

Bangalore 13th October 1942

Mr 155-42-15

From

ABDUL AZIZ KHAN Esq B A
MUNICIPAL COMMISSIONER
BANGALORE CITY

SECY LAW DEPT. 1 OCT 1942 GOVT OF MYSORE

C. Narayanaswamy Naidu, Esq , B A , B L ,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
LAW DEPARTMENT, BANGALORE

SIR

I have the honour to state that Mr K Hanumanthaiya, B A , LL B , Honorary President of the Bangalore City Municipal Council was - arrested on 10-8-1942 under Defence of India Rules and is detained in the jail since that date As such, he did not function as - President all these days and has ceased to be the President of the Council from 11-10-1942, under Section 23 (7) of the Mysore City - Municipalities Act His term of office would have, in the usual course, expired on 31-12-1942, but, since he is no longer the - President now, election will have to be conducted for filling up the vacancy for the remaining period of the term, since the Vice-President can only perform the functions and exercise the powers of the President, pending election of the President under Section 26 (2) (b)

Orders of Government may be kindly obtained in the matter of filling up the vacancy of the President

I have the honour to be,
Sir,
Your most obedient servant,

A A Khan

MUNICIPAL COMMISSIONER

mlt

Appendix F G —1]

SUBJECT

Section ml

File No 155-42

Serial No 16

Diary No of letter replied to

Do No L-5349

General and Revenue Secretariat

( )

the *194*

T6

Dear Sir,

Date of issue 3-12-42

I am desired to invite reference to your letter No C1 PR 9/42 dt 13-10-42 re the filling up the Vacancy of the Dclt, Mr K Hanumanthaya of the Brigade ml Cl. and to state that since the period of Mr Hanumanthaiya as President expires on 31-12-42, necessary arrangements may be made for holding a fresh election

Signed by Mr GRRao

Yours truly

for

3/12

List of enclosures

Codied by

Examined by

WD C4161—GPB—60 000—24 10 41

To the Dist. Comm. Brig

3/12

BANGALORE CITY MUNICIPALITY

3336/L

No C2-C.799/42 Encl One — MUNICIPAL OFFICES

Encl

Bangalore 28th November 1942.

From

ABDUL AZIZ KHAN Esq BA
MUNICIPAL COMMISSIONER
BANGALORE CITY

SECT. DEPT
30 NOV 1942
L S G BRANCH

To

C. Narayanaswamy Naidu, Esq , B A , B L ,
SECRETARY TO THE GOVERNMENT
OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
LAW DEPARTMENT BANGALORE

SECY LAW DEPT
GOVT OF MYSORE

STR

I have the honour to state that the terms of Offices of the President and Vice President expire on the 31st December 1942 and fresh elections for filling up the posts of the Honorary President and Vice President have been fixed for Tuesday the 22nd December 1942 at 9 A M , A copy of the Calendar of events along with a copy of the Notice of the Special Meeting of the Council for purpose of election is herein enclosed for favour of information and orders of Government. The result of elections will be - intimated in due course

I have the honour to be,
Sir,
Your most obedient servant

rwarded with compliments.

L Venkatswamy Chetty
Hon Vice President

A A Khan
Municipal Commissioner

Submitted for perusal
30/11

SECY LAW DEPT
S 830
GOVT OF MYSORE
OFFICE OF THE MINISTER
FOR L S G & P H
Date 1-12-42
No

The question of nominating the Vice President may be considered now if necessary such steps will be taken in my absence

Minister for L S G & Dewan
1-12-42

L 3470 / 3336

The election may take place as already fixed

4385

Submitted with a draft letter for approval

To The Secretary, Board of Trade
No L 5840 dated 11-12-42
States that the election may take place as already fixed -

CALENDAR OF EVENTS

ELECTION OF PRESIDENT AND VICE PRESIDENT OF THE COUNCIL FOR THE PERIOD FROM 1-1-1943 to 31-12-1943

1	Notice of Meeting to issue on	WEDNESDAY 3rd December 42
2	Nomination papers to be received on or before	FRIDAY THE 11TH DECEM 42 5 P M
3	Notification of the names of the candidates at the City Municipal Offices, Bangalore	TUESDAY THE 15TH DECEM 42 at 5 P M
4	Special Meeting of the City Municipal Council to be held for election	TUESDAY THE 22ND DECEM. 42 at 9 A.M
5	Report of Election to Government.	TUESDAY THE 22nd DECEM 42

Honorary President in Charge

No C1 C.799/42

City Municipal Offices, Bangalore, dated 28th Nov 42

Notice.

A Special Meeting of the City Municipal Council, Bangalore, will be held on TUESDAY THE 22ND DECEMBER 1942 AT 9 A M in the Council Chamber of the City Municipal Offices, Bangalore, for the Election of the President and Vic President for the period from 1-1-1943 to 31-12-1943

The Nomination papers should reach the undersigned on or FRIDAY THE 11TH DECEMBER 1942 5 P M

Honorary President in Charge

rsn.

Copy

Municipal Commissioner

L 5840 d 11/12-42
mil

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*)

To

The ml Commr Bkg/Hyd
Pdy

Sir,

With reference to your letter no C1 C 799/42 dy 28-11-42 forwarding for information & orders a copy of the Calendar of events relating to the election of The Pdt & Vice Pdt of the Cfs ml el for the period from 1-1-1943 to 31-12-43, I am directed to state that The election may take place as already ~~intimated in this office~~ fixed

~~Yours~~
Your letter no

Kind reference is also invited to this office letter no L 5549/mil/55-42/16 dy 3-12-42 ~~issued in this behalf.~~ on the same subject

I have etc
1d/12/42
for Secy to Govt
Ufc Law Deptt
10/12

WD 0282—GPB– 22 500—14 3 38